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Viewing cable 10NAIROBI171, Severe Coalition Government Tensions Surface

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Reference ID	Created	Released	Classification	Origin
10NAIROBI171	2010-02-16 12:23	2011-08-30 01:44	CONFIDENTIAL	Embassy Nairobi

Appears in these articles:

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C O N F I D E N T I A L SECTION 01 OF 04 NAIROBI 000171

SIPDIS
DEPT FOR AF/E AND A/S CARSON

E.O. 12958: DECL: 2020/02/16
TAGS: [PGOV](#) [PREL](#) [KE](#)
SUBJECT: Severe Coalition Government Tensions Surface

REF: RANNEBERGER-CARSON TELCON FEBRUARY 15

CLASSIFIED BY: Mitch Benedict, Political Counselor, State, Political;
REASON: 1.4(B), (D)

¶1. (C) Summary. Severe tensions within the coalition government have been building in recent days and erupted on February 14 into what both sides are characterizing as a "crisis." The revelation of major corruption within the Ministry of Education, headed by a

minister allied to President Kibaki, sparked retaliatory release of a long-delayed forensic audit of the maize scandal allegedly tied to the Prime Minister's office as well as Minister of Agriculture Ruto. In an effort to protect himself, Odinga on February 13 announced the resignations of two officials in his office. Caught off guard, President Kibaki responded by suspending eight senior officials implicated in both scandals. Seeking to regain the upper hand, Odinga on February 14 announced he was suspending the Minister of Education and Minister of Agriculture. The President's office immediately disputed Odinga's authority to suspend the ministers, and announced that the two remain in place. Odinga is also seeking to reopen agreements on contentious issues with respect to the constitutional review process reached by the Parliamentary Select Committee a week ago. We are in close touch with both sides to urge them to resolve the current imbroglio. Odinga has formally requested Annan to intervene pursuant to the provisions of the National Accord which formed the coalition government. Annan told the Ambassador on February 15 that he will call Kibaki and Odinga. While the country remains calm, there is the potential for some violence given the willingness of politicians to resort to such tactics and continued high ethnic tensions. We are closely monitoring the situation. We issued a statement on February 15 urging the coalition partners to resolve their differences. We are reaching out to all the key actors to urge calm and appropriate statements calling on the two leaders to work out their differences. Depending on how matters develop in the coming days, additional high-level USG intervention may be needed. The coalition crisis, corruption, and constitutional review will be the focus of Parliament, when it reconvenes February 23. End summary.

Coalition Tensions and "Crisis"

12. (C) What appeared to be progress on both the constitutional review process and corruption issues has been transformed into public surfacing of severe tensions within the coalition government. Both sides are, unhelpfully, characterizing this as a "crisis." Though we have publicly avoided doing so, there is a growing perception among Kenyans that the tensions do, or will soon, amount to a serious crisis.

13. (C) The tensions are related to the corruption issue and the constitutional review process. There has been growing pressure on the coalition government to take action on the education and maize scandals. The Ambassador's January 26 speech focused on the need to accelerate implementation of the reform agenda. The speech resulted in revived public discussion on corruption issues (particularly the maize and education scandals). Based on credible reports from multiple sources, it seems clear that the maize scandal touches the families of both President Kibaki and Prime Minister Odinga, and key members of their teams (though Odinga's side is likely more culpable on the maize scandal; Minister of Agriculture Ruto has been openly hostile toward Odinga and is working closely with the Kibaki side, so Kibaki has an interest in protecting Ruto). The corruption within the Ministry of Education likely reaches very senior levels on Kibaki's side.

14. (C) Faced with growing pressure, Kibaki and Odinga saw joint interest in taking limited action. Thus on February 13, the government announced that a number of senior officials were being suspended for three months while investigations take place into the maize and education scandals. The officials suspended include: Ministry of Agriculture Permanent Secretary Romano Kiome, Ministry of Special Programs Permanent Secretary Ali Mohamed, Ministry of Education Permanent Secretary Karega Mutahi, Office of the Prime Minister Permanent Secretary Mohammed Isahakia, Office of the Prime Minister Administrative Secretary Caroli Omondi, National Cereals and Produce Board Managing Director Gideon Misoi, National Cereals and Produce Board Sales and Marketing Manager Boit, and National Cereals and Produce Board General Manager Langat.

15. (C) Although a product of consultations between Kibaki and Odinga, the announcement of suspensions was issued by the presidency. On February 14 Odinga announced separately that he was suspending Minister of Education Ongeru and Minister of Agriculture Ruto for 3 months while investigations take place. Odinga presumably did this because he wanted to be seen directly as acting against corruption, but there were undoubtedly other considerations

as well (see below). Later on February 14, President Kibaki issued

NAIROBI 00000171 002 OF 004

a statement countermanding Odinga's suspension of the two ministers, and stated that there had been no consultation between him and Odinga regarding such a step (Odinga claimed there were consultations). Additionally, Kibaki stated that the Prime Minister does not have the legal or constitutional authority to suspend a minister.

¶6. (C) On February 15 Odinga issued a statement maintaining that he has the authority to remove the ministers pursuant to the constitution and to the National Accord and Reconciliation Act. (The legal authorities are not completely clear. While Kibaki has the constitutional power to appoint ministers, the National Accord states that ministerial appointments and removals shall be made pursuant to consultation between the coalition partners.)

¶7. (C) Odinga's statement concluded by officially declaring a "dispute" between the coalition partners and seeking the "immediate intervention of the African Union, in particular the Office of the Eminent African Personalities chaired by Kofi Annan, to convene a meeting to discuss the current crisis with a view to resolving it."

Context of Odinga's and Kibaki's Actions

¶8. (C) It is important to understand the context in which Odinga's actions are taking place. On February 12 we learned that Odinga had chaired a meeting with close advisers with a view toward reopening key provisions of the agreements on contentious issues in the constitutional review process reached by the Parliamentary Select Committee in Naivasha the previous week. When the Ambassador called Odinga, he admitted this was the case. He stated that the Parliamentary Select Committee had exceeded its mandate. How could Odinga walk away from the agreement when Odinga's top people are in the PSC and participated in the meetings under instructions from Odinga, the Ambassador asked? Odinga had no response to this, but nevertheless insisted that key provisions must be reopened. Odinga's decision to reopen key issues came just days before the PSC and Committee of Experts were scheduled to review the results of the Navaisha meetings and move the constitutional review process forward. Odinga's decision to reopen key issues was confirmed today when his ODM party submitted a ten-page memorandum to the COE reopening key issues.

¶9. (C) We have credible reports that members of Odinga's family, presumably with his knowledge and/or involvement, were involved in the maize scandal. Thus, at the time he made his dramatic February 14 statements, Odinga was facing serious pressures on both the corruption and constitutional review issues. It seems highly possible that Odinga made the announcement regarding Ongeru and Ruto knowing that it would cause a huge political and constitutional flap, and thus divert focus on both the corruption and constitutional review issues. Alternatively, Odinga may have miscalculated that he could "roll" Kibaki to go along with his actions because Kibaki would not want to be seen as supporting ministers tainted by corruption.

¶10. (C) Kibaki, like Odinga, also wants to be seen as spearheading anti-corruption actions, so one-upsmanship is at play. Members of Kibaki's family may be involved in these or other corruption scandals. Kibaki may have calculated that sacrificing senior-level personnel short of ministers would be enough to placate the public. At the same time, Kibaki is likely be urged by Uhuru Kenyatta not to take action against Ruto, since the two are working closely together, possibly with a view toward the 2012 presidential elections.

U.S. Actions

¶11. (C) The Ambassador spoke with Presidential Permanent Secretary Muthaura and Prime Minister Odinga on February 14. Muthaura insisted that, while the President and Prime Minister had discussed the possibility of ministerial shake-ups on several occasions, there was no agreement to suspend Ongeru and Ruto. Odinga's action to do so has precipitated a constitutional crisis, Muthaura said.

Odinga told the Ambassador that he consulted Kibaki on the suspensions, but he quickly added that whether or not Kibaki had agreed makes no difference, since Odinga has the authority to suspend the ministers. "I have the constitutional authority to coordinate and supervise the ministers," Odinga stated. "That authority amounts to nothing if I do not have the authority to suspend ministers." The Ambassador urged the Prime Minister to call the President with a view toward resolving the impasse and avoiding a crisis. Odinga was non-committal, and then late on February 14 he departed for a week-long visit to Thailand and Japan. (As one wag put it: having set the house on fire, Odinga left the country.)

NAIROBI 00000171 003 OF 004

¶12. (C) The Ambassador spoke with Kofi Annan on February 15. Annan said he is closely following the situation and will likely call Kibaki and Odinga on February 16, after they have both had a chance to calm down. He will urge them to resolve the controversy regarding the suspension of the ministers, and to keep the constitutional review process on track. (Annan remains very involved on Kenya and plans to hold a major public forum on the National Accord in Nairobi in late March.)

¶13. (C) In the volatile atmosphere of Kenyan politics and continued serious ethnic tensions, resort to violence by some or all of the actors is a real possibility. Ruto certainly sees that as an option. Odinga knows that he does not have the votes in Parliament to support his actions (given that Ruto can control at least 12 or so MPs), and therefore may be tempted to see fomenting public unrest as his only option.

¶14. (C) On February 15, we issued a statement urging the coalition partners to work together in the interest of the nation (see full text below). We are also urging calm and reaching out to key actors, including civil society, the private sector, religious groups, the media, youth groups, and politicians. A number of these actors have indicated they will key off of our statement.

¶15. (C) We are monitoring the situation closely. Depending on how matters evolve - and the results of Annan's interventions - additional high-level USG engagement with Kibaki and Odinga may be necessary in the coming days.

¶16. (U) Begin text of statement.

U.S. Government Statement on Coalition Government Actions

Nairobi, 15 February 2010 - The U.S. Government welcomes the decision to order certain officials to step aside while investigations into the maize and education scandals proceed. This constitutes an essential first step needed to address corruption scandals. The Kenyan people and the international community are waiting to see whether the government's actions taken so far signal a new decision to take bold actions to fight corruption at all levels with respect to these cases and the other major corruption scandals.

Thorough, transparent, and independent investigations should be carried out expeditiously, and vigorous prosecutions should take place as warranted by the evidence. Government officials at all levels must be held accountable for their actions. We urge the leaders of the coalition government to work together to ensure that all appropriate steps are taken so that justice is served and the rule of law is respected.

The signing of the National Accord and formation of the coalition government was a watershed which ended the worst crisis in Kenya's history. The coalition leaders, therefore, have a responsibility to act in a unified way to move forward the historic reform agenda. Only a unified coalition government approach, in the spirit of the

National Accord, will be credible. Only a unified approach by the coalition leadership will signal true determination to work together to fight corruption.

The coalition partners must concurrently work together in a cooperative spirit to successfully complete the constitutional review process. The work of the Committee of Experts and the Parliamentary Select Committee constitutes major progress. We urge the coalition partners to maintain momentum in the constitutional review process, and hold a timely referendum which will unify the nation.

Working together to tackle corruption, to implement other key reforms such as police reform, and to see the constitutional review process to a successful conclusion are, taken together, vital to ensure the future democratic stability and prosperity for all Kenyans.

NAIROBI 00000171 004 OF 004

We stand behind the message of the Kenyan people: "the resilience of the Kenyan people must not be taken for granted any longer. Tackle grand corruption and give Wananchi a new constitution."

End text.
RANNEBERGER